

**04-603 GRABLE & SONS METAL PRODUCTS V. DARUE ENGINEERING**

**DECISION BELOW: 377 F.3d 592 (6<sup>TH</sup> Cir. 2004)**

QUESTION PRESENTED

**1. SUBSTANTIAL FEDERAL QUESTION AND ORIGINAL JURISDCITION PREREQUISITES FOR REMOVAL TO FEDERAL DISTRICT COURT**

28 U.S.C. §144I(b) allows removal of any state civil action in which the district courts have original jurisdiction wherein the claim is founded on a right arising under the Constitution, treaties or laws of the United States. This Court has routinely held that such removal requires both a substantial federal question and the district court must have original jurisdiction over the action.

The question raised is, when there is a violation by the IRS of 26 U.S.C. §6335(a) by intentionally ignoring the prerequisite provision requiring personal service of notice of seizure before obtaining service by certified mail, whether the defendant in a state quiet title action can remove the action by claiming that the necessary interpretation of 26 U.S.C. §6335(a) as to whether strict compliance or substantial compliance with the statute constitutes a substantial federal question and creates original jurisdiction in the district court.

Cert Granted 1/7/05

Limited to Question 1 presented by the petition